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To Promote the Efficient Administration of Justice

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"The dream that we have, the vision we have—don't let that fail—of lawyers together feeling that they are members of a profession, feeling that the interests of the profession are not the interests of a minority, but are the interests of all, feeling a duty to establish and maintain standards and willing to discuss with anybody the way to do it, but *intent on getting it done.*"

—*Charles E. Hughes.* Page 14.

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Bulletin IV-B—Second draft of Metropolitan Court Act. Court organization for large cities. Pp. 94.

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The Municipal Court of Chicago, historical and descriptive. Pp. 43.

Bar Integration—A Profitable Movement

The recent national conference on bar organization has done a great deal to indicate what role may reasonably be expected of statutory organization The goal is an integrated bar in every state. Since there can be no complete integration except in an inclusive bar organization, statutory authority must be relied upon at some stage of the evolution. That there is an evolutionary process, already long in effect in virtually every state, seems quite evident. Until recently the evolution toward integration has operated through voluntary associations.

At just what stage of voluntary association progress resort to legislative action is indicated depends upon various conditions. It appears safe to conclude that when the voluntary association in any state musters sufficient conviction of its needs to overcome opposition in the profession and opposition in legislature the time is ripe for statutory organization. In the four states which have taken the lead in this field the test of getting a bill passed has seemed to prove that the profession is ready for this step. Nor can anybody doubt that the bar of California, where the bar act was prevented from adoption only by a veto, is ready for this forward move.

We are convinced that bar organization is one of the fundamental factors in buttressing the foundations of the temple of justice. We are seeing more clearly every day that the lawyer, individually, is the important factor in administering justice. It is obvious that the lawyer as judge and as legislator performs a significant public function and it is just as true, though less obvious, that in counselling clients, in applying the written and unwritten law to living facts, and in conducting litigation, the lawyer is the unescapable, indispensable minister of justice.

As such, the lawyer has a duty to his clients and a duty to the courts. He has a further duty and public function which have not been commonly stressed, but which are ably presented in the quoted remarks from the argument of Mr. Julius Henry Cohen of New York, appearing in the report, in this number, of the national conference. It is his duty to his profession—a duty to participate in the collegiate government of the bar and to see that the bar is what it ought to be.

In response to a feeling largely inarticulate, the voluntary associations of the bar came into being a generation ago. They have represented a half-conscious response to an obligation that has been vaguely felt but rarely expressed. The era of voluntary associations has been a necessary stage in an evolution from chaos toward definite powers to cope with definite responsibilities.

A considerable measure of integration is possible under voluntary organization and in certain states has been achieved. Some of the more active associations have developed powers to serve the growing functions of the bar. Just as these powers have grown so has the ideal of complete integration come into the field. Experience in the use of limited powers has inspired the desire for substantial powers as enjoyed by the bars of other leading nations.

We have said that statutory authority must be relied upon for a long step forward in the integration process. This is becoming the common ideal, a remote one in some states and a very imminent one in others. It should be noted, however, that it is conceivable that a state bar might be given inclusive

organization and delegated powers for self-government under the rule-making power of the state Supreme Court. There are difficulties, but it is at least conceivable.

In a state where the status of official organization is being advanced, the problem of securing consideration of the proposal is a very practical one. It must be determined whether progress is to be served by introducing a bill in legislature merely to arouse discussion. There is a strong temptation to take this short cut to publicity. The alternative is a long and arduous campaign. The bill is readily introduced and it is likely to serve the purpose of arousing interest.

This is not necessarily bad strategy, but it is timely to note that it has its dangers. In several states a little brush in the legislature has had the unexpected result of arousing natural opponents of the plan much more than natural supporters. In one state the effect was to stir opponents to make a thorough canvass and build an organization which was much stronger than the state association which sponsored the bill. In a scramble for support the opposition has the advantage; for, while proponents have but one line of argument, their antagonists can resort to every conceivable objection, consistent or inconsistent, rational or irrational.

With present experience it seems wiser to discourage the premature introduction of bills. The safer way is to educate, to hold special meetings of the bar locally, to frankly meet all objectors and to give time for suggestions to ripen in the minds of all who have sincere doubts.

The experience of the California State Bar Association, the committee of which was headed by Joseph J. Webb, Esq., throws a great deal of light on ways for accomplishing statutory organization. The labor was the only thing left uncounted in the programme of that committee. Every possible factor and element and consideration were anticipated and plans made for appropriate action. The result was that whereas less than one per cent of the entire bar of the state attended the meeting in which authority was conferred on the committee, when the legislature convened almost every lawyer in the state, every judge and every Supreme Court justice was won to support. The newspapers were won. The public was won (miraculously) and the legislators were won so that there were but eleven dissenting votes in both chambers.

The California experience is important because it demonstrates the way to get legislation if the bar is fully prepared to accept it and make it succeed. It is important also because it illustrates how the very effort to secure support for a bill is a most wholesome and inspiring experience. There is no better way for the bar to find its own soul than to embark upon a campaign for essential powers. Every step in such a campaign is helpful in itself. It is impossible to lose in such endeavor. In several states where bills have been defeated the bar is measurably stronger, more alert, more self-conscious than it could otherwise be. No idea has ever been advanced that has been equally productive of a development of professional consciousness on the part of the bar of a state. The idea is in nowise opposed to the slower evolution of powers in the control of a voluntary bar association, but, on the contrary, it stimulates such evolution even in its temporary defeat.

There must be something in this principle which is inherent in the nature of the legal profession. Its universal application in older countries which

(*Concluded on Page* 22)

The Crisis in American Law

By Roscoe Pound[1]

NOTE: This article appeared in the January, 1926, number of Harper's Magazine, the editor of which has generously consented to its republication in the JOURNAL. We commend it especially as a comprehensive, though brief, analysis of conditions prevailing in American law and administration. This article, more than any other that we know of, confirms the faith of those who believe the time has come for significant changes and leaves no ground for those who oppose all measures of reform, if any there be of such opinion.

No thoughtful observer may doubt that American legal and judicial institutions just now are subject to a severe strain. Nor may he deny that they are far from meeting the strain as we could wish. On the criminal side, in our large cities, the courts cannot cope with the continually growing volume of prosecutions. The prosecuting machinery is choked with cases of which it can make no other disposition than to dismiss them wholesale. But, in the meantime, the creation of new legal precepts, to be enforced by prosecution before the courts, goes forward steadily.

The administrative enforcing authorities deliver to the judicial machine scores of violators of those precepts, whom the courts are called on to try and to subject to penal treatment, but of whom only a small fraction can actually be disposed of with the apparatus at hand. Likewise on the civil side of the courts, in almost every city of importance, the trial calendars are in a chronic state of arrears. Even where the civil side of the courts moves with dispatch, business men have reasonable and strongly felt grievances. Too often the rules and doctrines by which business situations and business transactions are scrutinized and judged are narrow and based upon ideas and methods of the past. Too often there are no certainly applicable rules or doctrines by which one may prophesy with assurance that they will be judged. When there are rules, and the rules are well adapted to the business situation, the machinery of ascertaining the facts is often better adapted to trying a horse trade between two farmers of half a century ago than to judging the business and industrial controversies of today.

About twenty-five years ago we began to take subjects of controversy away from courts and confide them to administrative boards and commissions. But some of these, in effect, have become courts. The justice they administer is going the way of judicial justice. Others have made little progress in developing a technic of individualized application of law, so that their offhand executive justice has proved as unsatisfactory in one direction as slow-moving judicial justice in the other direction. At present there is a reaction against further extension of the former, without any clear program for improvement of the latter.

II

We shall be able better to understand the present condition of justice in the United States if we note that it is not without a parallel in our history. Much the same condition existed in the beginnings of our polity, at the end of the eighteenth and in the first decades of the nineteenth century. True, the situation after the Revolution was complicated by hostility to English law—the law we had inherited and the only law available for our purposes. It could not escape the odium of its English origin. Many who, in the spirit of the rationalism of the eighteenth century, believed that a new and complete body of law could be drawn up overnight by a sheer effort of reason, called for an American code. Others would have received the then newly codified law of France. But the features of the unpopularity of courts and law and lawyers

[1]Dean of Harvard Law School.

which prevailed in the early part of the last century that have meaning for us today are those which are connected with the then condition and organization of the courts, the then condition of Anglo-American judicial procedure, the then condition of English substantive law, and the organization and training of the lawyers of that time.

Until well into the eighteenth century, and in some colonies until, and for some time after, the Revolution, justice had been executive and legislative rather than judicial. The first American law books were books of practice before magistrates. The social and economic conditions of the colonies in the seventeenth century did not call for much law in the lawyer's sense. An offhand, commonsense administration of justice by magistrates, with appeal to legislative assemblies, sufficed. With the growth of the colonies, the rise of commerce, and the development of a more complex social and economic order, judicial justice came to be demanded. By the time of the Revolution, many colonies had courts manned in part, at least, by trained lawyers. But legislative justice did not die till after half of the nineteenth century was past, and at the opening of the century state courts were still largely manned by lay judges. Moreover, memories of the arbitrary action of royal judges in more than one colony, and imitation of their methods by some trained judges after the Revolution, fostered suspicion of lawyer-manned courts —the only kind of courts in which the economic order has any real security. When we add that the judicial organization of the time was modeled on the English judicial organization when at its worst, and imposed a centralized administration of justice on sparsely settled communities in a land of magnificent distances, in a time of slow and inadequate means of transportation, it is not hard to understand the distrust of courts and reliance upon legislation which has been a feature of our polity ever since.

Not only were the colonial judicial organization and colonial policy as to the personnel of tribunals ill adapted to American conditions after the Revolution, but the procedure of the courts—and at that time procedure was the bulk of the legal system—was ill suited to a new and growing country, with its common law yet to shape and with institutions for training lawyers yet to be set up. The eighteenth century was a period of formal over-refinement. It was an age in which soldiers went into the field dressed for the ballroom. It was an age of formal, ceremonious, involved military evolutions, in which a detachment sent as a reinforcement at a time of acute peril could gravely explain that they came on the field too late because, owing to bad roads and underbrush, it was necessary to halt ten times in an hour to dress ranks. In such a time, judicial procedure, like every other human activity, became highly formal, artificial, and dilatory. There were some simplifications in colonial times, to suit the ruder, frontier conditions of the New World. But the same pressure of economic development that led to lawyer-manned courts and judicial justice made for a reception of English law; and that brought with it eighteenth-century legal procedure. That procedure was far from adapted to the needs of early nineteenth-century America. It was no small factor in causing the general discontent with the administration of justice which prevailed a century ago.

Nor was the substance of the English law, which we inherited at colonization or received after the Revolution, better adapted to the time and place than the court-organization and legal procedure which were to provide enforcing machinery. The bulk of English substantive law at that time was the feudal land law. Commercial law was still formative. The law of contracts, in our modern sense, was yet to come. The law of private wrongs, in the modern sense, was still far in the future. The

law of business associations was in its crude beginnings. It was needful that our courts examine the traditional English law item by item in order to determine what was applicable to the social, economic, political, and geographical conditions of America, and reshape the received items thereto. This process required about seventy-five years. At the beginning of the process, in the earlier decades of the nineteenth century, the administration of justice was far from satisfactory.

Means of bettering American justice were not immediately at hand. The legislature was at hand, zealous as ever to enact paper remedies. But study of the problems, study of the legal materials, law books, trained judges and trained lawyers were the agencies through which improvement finally came; and all these had to be provided. Before the Revolution a few lawyers had gone to England for a legal education. But trained lawyers were few. Reported decisions of American courts were very few. American law books or American editions of English law books were wanting. Lawyers served an apprenticeship with a practitioner and then went forth to practice as if they had learned a trade. The scarcity of competent lawyers to carry on the work of justice in the every-day tribunals added to the causes of dissatisfaction with the courts and the law.

III

Looking back at the difficulties of American judicial administration at the outset of our polity, it will be seen that they were difficulties incident to a period of transition. The very English law that we inherited was under strain at home; for England was in transition from an agricultural-commercial to an industrial society. In the United States this body of law and of legal institutions came to a pioneer society in which there was a rapid economic development along with successive settlement of new areas and setting up of new commonwealths, each with its own legal institutions.

Yet our law and our legal institutions survived the transition, and in a relatively short time adapted themselves to the pioneer, rural, agricultural society of nineteenth-century America. The judicial organization was made over, and an American system of courts grew up which still prevails. By the middle of the century legal procedure had been overhauled and had become set in the lines that now prevail in this country. By the time of the Civil War the substantive law had been overhauled, partly by legislation, but chiefly by judicial empiricism, and had become in substance what it is now. Most important of all, a number of chairs had been founded in our universities, on the model of Blackstone's chair at Oxford, from one of which came Kent's *Commentaries*, one of the formative books of our law. Law schools had been founded. In one of these the endowment of the Dane professorship for Joseph Story resulted in a series of books on constitutional law, commercial law, and equity which were decisive in the development of an Anglo-American common law for the whole country. We had competent men studying law, competent judges, competent lawyers, and adequate law books. Thus the period that ends with the Civil War became the classical period of American law. It was the period of the great judges, of the great law books, of the great creative statutes that made or shaped the legal institutions and legal precepts with which we administer justice today.

IV

After a period of stability, extending from the middle of the last century to the present, a new era of dissatisfaction has set in. Once more our legal and judicial institutions are under fire—and justly so. And the reason is the same. We are in a period of transition, and our legal and judicial institutions, well adapted to and functioning adequately in the society for which they were devised and in which they grew up, are ill

adapted to and function badly, or at best indifferently, in the society in which they find themselves. The census of 1920 showed a definite shift of the center of gravity of our population from country to city. Moreover, this growth has been chiefly in the large cities, whereas in the nineteenth century growth took place chiefly by the opening up of new areas to settlement and the building up of new agricultural communities. When we observe that the population of New York City multiplied by forty-six in one hundred years, by six in fifty years, and almost by four in the last twenty years; that Chicago was non-existent in 1820, and that its population has multiplied by nine in fifty years; that Cleveland, a village of less than one thousand inhabitants in 1820, had in 1920 a population of nearly 800,000, and had multiplied its population by more than eight in fifty years; that Detroit had multiplied its population by thirteen in fifty years, and by four in the last twenty years; and that Los Angeles had multiplied its population by one hundred in fifty years, and by almost six in the last twenty years, and had more than 576,000 inhabitants where there had been only a mission a century before — when we observe these things we may understand better the temporary breakdown of judicial justice in our large cities. A highly developed system of substantive law and a specialized machinery of prosecution, administration, judicial organization, legal procedure, and penal treatment, devised and shaped for pioneer, rural, agricultural America of the first half of the nineteenth century, are struggling with the wholly different conditions of the urban, industrial society of today. In the huge cities which have grown up all over the country in a generation the ill adaptation of the machinery to the task is acute.

In England, where a like situation existed in the nineteenth century, they overhauled the judicial organization completely in 1873. Thus far the staple American remedy has been to add judges or create more courts, while keeping up the essential features of a model designed for very different tasks, to be performed under different conditions, and for a much less volume of business. With respect to procedure, there has been much improvement in the past twenty-five years. But here also the method and presuppositions are those of a pioneer, rural, agricultural society, and a complete overhauling must come eventually, as it did in England. As to the administrative organization of the courts, it is everywhere in substance what we made it when we adapted the English models of the eighteenth century to the conditions of pioneer America. We have met the enormous increase of judicial business by multiplying officials, not by reorganizing the administrative side of our tribunals and inventing new methods suitable to the work they have to do today. It is true some of the municipal courts set up in the past two decades have worked out notable administrative improvements. But very little attention has been paid to this part of the machinery of the legal system. It is no more possible to conduct the business of the tribunals in the great city of today on the traditional lines of the old English courts, as modified in the early nineteenth century to meet the needs of that time, than to conduct the affairs of a modern industrial plant with the office methods of a century ago.

In the substantive law there has been steady growth. But growth by judicial decision, through experience of the operation of legal precepts in their application to litigated cases, is too halting to meet the needs of business in an era of rapid development of business methods. An acute critic has pointed out recently that courts are struggling vainly to treat problems arising from "sales agencies" by the legal conception of agency. Here the main difficulty is that it is no one's business to study the law

functionally, to perceive how and where it falls short, and why; to discover leaks in our apparatus of precepts and doctrines and find out how to stop them. Fifty years ago the judiciary committees of the houses of the legislature were equal to the small amount of investigation of this sort that was required for the efficient functioning of the law. Later committees on law reform in bar associations have been able to do part of this task. But today the task has become too great for these agencies. They are not continuously at work. They have no means of surveying the whole field. They can give but a fraction of their time. We must find some agency which is always in operation, which works under conditions of permanence, independence, and assured impartiality, in which, therefore, the public may repose confidence.

Not the least serious effect of the rapid growth of great urban areas and the transition to an urban industrial society is to be seen in the relation of the lawyer to the administration of justice. Our polity relies upon three checks to insure that the wide powers which we must confide to judges and prosecutors are not abused. One is the professional training of the judge. Another is scrutiny and criticism of all judicial proceedings by the bar. The third is publicity, insured by public records, showing fully what has been done, by whom, and upon what facts. Of these, on the whole, the second is the most effective. So much that goes on in courts is necessarily technical in character and can be understood in its true setting only by experts, that the press and the public must be ultimate rather than ordinary agencies for keeping the administration of justice in the right course. In the beginnings of our polity lawyers were few, were engaged primarily in the courts, and each knew what was done by the other and by the judge. Today in our large cities the leaders of the profession seldom go into court and avoid all criminal cases. Professional defenders practice in criminal cases and the bar generally know little more of what goes on in criminal tribunals than the public at large. In rural communities the close daily contact of a small bar, chiefly or largely engaged in the courts, serves to preserve the conditions which our judicial and professional organization and our procedure presuppose. But in large cities the leader of the bar is a man of business. He advises, organizes, reorganizes, and directs business enterprises. The actual administration of justice in the courts is of secondary interest. Economic causes have turned the energies of the ablest and best trained in the profession into client-caretaking.

A century ago an unorganized profession could still preserve common law traditions through the close association of court room and circuit. In the large city of today there are thousands of lawyers, but there is no bar. There is no corporate profession with efficient apparatus for discipline and self-government. Thus the administration of justice is deprived of its best check. Not a little of what is worst in the administration of criminal justice in American cities is due to conditions that make Sampson Brass, and Dodson and Fogg, and Caleb Quirk, Esq., of Alibi House —who were eliminated in England by the incorporation of the lower branch of the profession—familiar characters in damage litigation and criminal prosecutions throughout the land.

V

What has been said is by no means a complete sketch of the effects of an era of transition upon a judicial organization and prosecuting machinery made for another time and another type of social and economic conditions. But it is not so important to indict our administration of justice as it is to see what is behind the details complained of, and thus perceive why things are as they are and how we may hope to make them

better. It is well to bear in mind, when English justice of today is compared with American justice, that the English have not been out of Egypt very long. Read Dickens on the Court of Chancery. Read Dickens on Bardell v. Pickwick. Read *Ten Thousand a Year*. They have in them much that is familiar to the observer of American law in action. But they are true pictures of English justice in a time not far in the past. From 1828 to 1873 law reform was a staple subject of agitation in British politics. Almost every administration during the period of legislative overhauling of legal institutions that came to an end in 1875, had its program of law reform. Successive royal commissions made detailed studies and elaborate reports. There was more than one unsatisfactory change before the present system was worked out.

With us the task is more complicated than it was in England. We have a double system of courts, state and federal. We cannot set up one system in all its details for all the courts of the land. Congress and the legislatures of forty-eight states will each provide to some extent in their own way for their respective jurisdictions. A judicial organization for Rhode Island would not do for Texas; nor could Massachusetts and California employ exactly the same judicial and administrative machinery. We must guard against the sort of thing that happened too often when our present system was in the making. Popular impatience at the over-conservatism of lawyers and the slow progress of adaptation of English law and English legal institutions to the new world, and legislative over-confidence, led to many offhand changes or ill-advised inventions that vex our administration of justice today.

For example, consider the common law as to misdemeanors. It had grown up in the Court of Star Chamber. Hence it was an object of suspicion. It was invoked to preserve order in the disorders that went with the bad economic situation after the Revolution. That alone was enough to make it unpopular. It was invoked on behalf of the federal government, not always wisely, to meet seditious attacks at a time of acute political partisanship. Thus it became an issue in partisan politics. Many jurisdictions rejected it in the fore part of the last century and set up a doctrine that nothing was a crime unless made so by statute. When one perceives the huge mass of legislation which this doctrine makes necessary—e.g., in Ohio recently there were 15,367 sections in the statute law, in Michigan there were 15,532, and in Missouri 13,672—he may perhaps think that the common-law method of laying down a general principle, leaving details to be worked out by that principle as they arise, was much to be preferred. Not a little of the flood of legislation, of which so much complaint is heard, is necessitated by a doctrine that all details of police regulation must be laid down in the written law. This was well enough one hundred years ago. It is no longer workable in the metropolitan cities of today.

Grave obstacles stand in the way of improvement. The present system works well enough in the average rural community, and legislators from those communities see no need of change. The instinct of the lawyer to scrutinize with suspicion all projects to reform has always retarded progress. Imperfection of our legislative methods and inadequacy of our agencies of informing the legislature will hold back statutory improvements. The cult of incompetency, which is an unhappy by-product of democracy, will go along with popular impatience to rush us for a time to ill-conceived projects. Popular suspicion of lawyers, and hence of well-conceived and carefully prepared projects of reform, will impede the adoption of durable measures. Nor may it be denied that the self-interest of the lower

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Conference on Bar Organization

Delegates From Forty States Present Facts and Debate Principle of Statutory Organization at Notable Meeting Held in Washington

The Conference of Bar Association Delegates held a special meeting to consider means for advancing the movement for statutory organization of the bars of the several states on April 28 in the city of Washington. Forty states were represented by delegates, and members of the General Council and Executive Committee of the American Bar Association also attended. This was the first time that a meeting had been called expressly for this purpose. The meeting fully justified the effort involved. It afforded opportunity not only for the presentation of a great deal of information concerning the progress of the movement but equally for the consideration of the views of opponents, who came prepared to argue the matter in a thoroughgoing manner. In five or six previous meetings of the Conference the proposal had been endorsed on principle and recommendations had been made to the several state bars, but at no time had there been enough opposition to dramatize the subject, nor time for real debate.

The opposition naturally came from the two states which are least prepared to achieve statutory organization of the bar, New York and Illinois. In New York the state association had authorized its committee to draft a bill and have it introduced, but there had been no serious or thorough consideration until after the introduction of the Gibbs bill on the last day of the session of 1925. At the annual meeting of the state association held last January it was evident that the bill had served its purpose of making the proposal realistic and provoking discussion. Very strong objections were raised, mainly on behalf of the Association of the Bar of the City of New York and the New York County Lawyers Association. The matter was recommitted and subsequently the City Association discussed it and condemned it at a special meeting, while the county association passed an adverse resolution in its board of directors.

It was quite inevitable that any serious proposal to form an inclusive state bar organization in New York at this time would arouse a great deal of hostility. Such a proposal naturally alarms many lawyers who have been most active in existing voluntary associations. They look upon these associations as representing all that is worthy in the public aspects of the profession and believe that it is only through such voluntary associations that the progress already made can be retained and further progress achieved.

In one respect the Gibbs bill presented the matter in an especially unpalatable form. It contained a provision for judicial district divisions of the state bar, a good feature in itself, but then provided that any county association, by a two-thirds vote of its members, could elect to become the nucleus of the district division in which it found itself. Further:

> Such an organization, if it so elect, may, with the approval of a justice of the Supreme Court in and for the county in which such organization is in existence, transfer all its assets, after the payment of all of its debts, to such judicial district division and thereafter such division shall succeed to all of the property of said county bar organization. But any such county bar association may elect to become the nucleus of the judicial district division and nevertheless preserve and continue its own separate organization without transfer of its assets. If, however, it elect to retain its separate organization, then no part of the moneys paid by the state bar treasurer to the ju-

dicial district division under section ten hereof shall be paid to or used by said separate county organization.

The authors of the foregoing undoubtedly believed that the matter had been sufficiently safeguarded, and were apparently right, as a matter of fact, but the provisions quoted, nevertheless, aroused a desperate antagonism. The city association is the oldest in the country with a proud record of civic and professional achievement. It possesses a magnificent building with every facility for furthering its members' objects. Any proposal for inclusive organization of the bar of the state was doomed to meet opposition here where that portion of the profession which has no association membership is looked upon as derelict in its duty and a doubtful source of usefulness.

Much stronger, evidently, was the ground for opposition in the New York County Lawyers Association, for it was expressly made eligible to act under the merger provision and a situation had arisen more recently which made the foreshadowing of such action very distasteful. The county association, in fact, had received pledges from two individuals aggregating $230,000, and had started on a campaign to raise enough more money to make at least $1,000,000 to be used in erecting a suitable building. The mere hint that the association might lose its identity and merge its resources in a state organization was highly prejudicial to the campaign for funds.

Handling a Delicate Situation

The feeling that was engendered in damning the Gibbs bill at home overflowed and gave rise to the debate which enlivened the Washington meeting. That the unorganized element of the profession in such a great center as New York should be considered unfit for equal participation in the control of an inclusive state bar was inevitable. The situation was foreseen at the time of the drafting of the first model state bar draft act, published in the JOURNAL, Vol. II, No. 4, and was dealt with in a note to section three which filled nearly two pages. The authors of the bill having the lawyers of New York City and Chicago in mind, anticipated objections to statutory inclusion of all lawyers and suggested that such an act provide for the inclusion of newly admitted members of the bar but allow five years for others to accept membership voluntarily.

The note referred to presumed opposition from worthy lawyers, not members of any association, from unworthy ones, and finally from those in voluntary associations who are "timorous of contact with the less respectable element." Continuing, the note said:

They will fear to confer a share in the democratic control of the bar to this less respectable element. The answer to their fears is, briefly, that the ultimate control must be presumed to rest with the majority of the bar and to rise at least to the level representative of the ideals and principles of the majority. They should not be afraid of the power of an element in the profession which is numerically weak as long as honest representation is assured, as it is by the act. The mere coupling together in a single organizaton of the best and the worst will do more to cure the evils experienced at present than any disciplinary rules and machinery, for it makes those of the highest motives responsible for the conduct of all, gives them the machinery for developing their principles and ideals, and at the same time gives to the less worthy the highest possible motive for ethical conduct, for misconduct will entail the risk of losing every professional right and privilege.

Recognizing the need for hearty support from existing associations the act provides that the commission of five to effect organization should be appointed by the governor of the state from those who are serving, or have served, as president or vice-president of the state bar association.

The prospect of a battle between champions of opposing lines of thought did much to stimulate the meeting. Chairman Charles E. Hughes anticipated the conflict in his opening address, wherein he adopted a conciliatory tone, illustrated by the following quotations:

Chairman Hughes' Remarks

This project has been motivated by a keen sense of the solidarity of the profession of the law, an appreciation of its standards and ideals, and an earnest desire to promote the administration of justice.

Whatever views may be entertained with respect to particular measures, all who are worthy of their position and privileges as members of the legal profession hold at heart these objects. We are justly proud, in this country, of the progress that has been made, notably in invention, in the applications of science, in research, in the manifold activities, far more important than any political activities, which give us the progress of civilization which we like to think has been more highly advanced in this country than anywhere else, so far as the standards of living and the degree of comfort of our people are concerned.

We also are gratified at the general success of the administration of justice. By that I mean we take pride in the peace, the stability, the good order of our communities, all of which rest upon the administration of justice.

When, however, we come to consider the progress that has been made in relation to the administration of justice with that which has been achieved in these many endeavors to promote the well-being of society by the application of knowledge and scientific research, we can not fail to be impressed with the fact that with respect to justice, democracy's highest concern, we lag far behind.

We are satisfied, in a general way, with the integrity and impartiality of our judges. We have made notable improvement in advancing the standards of legal education and the requirements for admission to the bar. We realize, however, that we are far behind the point where the intelligence and the ability of the bar should have brought us. Our ethical standards, however high they may be with those who in the main represent the activities of the profession, are lamentably disregarded by many others. There is a laxity in practice. There is too much dilatoriness in procedure. There is a regrettable lack of expertness and efficiency which ought to be supplied. . . .

Of late, there has been important, influential voices raised in opposition to the plan. I think the objections which have been urged spring from two fears: first, the fear that the plan will not work, and, second, the fear that the plan will work. I think that sometimes both fears are entertained by the same person.

Lawyers are never committed to consistency in argument. They are quite content if they can present any ground which will support a decision in their favor. They are quite well aware that judicial reasoning may not follow in the line of their own reasoning, and hence they hesitate to commit themselves to any particular line of thought as against another which may prosper their ultimate purpose.

That disposition of mind is often carried forward into other fields of discussion. The fear that this plan will not work is a very important matter to reckon with. I think it deserves the most serious consideration. It is said that we have, in some of our large cities, organizations of the bar which are practically open to all, but there is a great indifference on the part of the members of the bar to taking advantage of the privileges that they offer. That is undoubtedly true. It is said you can not overcome the inertia of the great numbers of lawyers who do not feel their responsibility. It is said, repeating a truth which in democratic society cannot be too frequently uttered and emphasized, that you can not establish moral standards, opinions, by legislative fiat. You can't legislate into lawyers a sense of their duty. You can't compel them to recognize standards by making them members of a state bar organization. There is a great deal of truth in the statements that are urged in support of the position that the plan will not accomplish the purpose that has been desired.

There remains, however, the question: What are you going to do about it? Because the entire bar can not be energized, is it desirable to omit every sort of effort which may tend to energize it? The sense of privilege goes with the sense of responsibility. If you find that members of the bar are generally indifferent to their duties, are you going to succeed in interesting them in promoting a higher conception of their position as ministers of justice by absent treatment? Isn't your function that of injectors of a wholesome serum into diseased bodies? Is it your desire to accomplish something by dealing with them from the outside, or to create a better sense of solidarity in professional relations? . . .

This can never be achieved in any state by a divided bar, in the face of controversy. We are not here for controversy. We are here to exchange views as men who desire the same objects and wish to confer and take counsel together.

Then there are those, as I have said, who fear that the plan will work. They have very gloomy pictures of a bar not indifferent but so brought together with a sort of tidal wave of professional sentiment that they will submerge the activities and the wholesome association of a voluntary sort of which those who have the privilege of belonging to such associations are justly proud. In other words, we have the spectacle which vexes the imagination of a great many of our good friends, of a state organized bar taking the property, the interests, and absorbing the activities of voluntary associations which have been most helpful in their

communities; that is, it is a fear that this plan will work, that there won't be indifference, and that the voluntary associations will be left to do the work despite this organized effort which will stand on one side, an abortive affair, but they will have to reckon with it as something threatening their influence, their prestige, perhaps their very existence.

If I may be allowed to say, in this spirit in which I hope we will all share in entering upon this discussion, I should like to see it made a provision in any bill that provides for state organization, that no voluntary association should be compelled to join it or should be affected in any way by any activity of the state bar in its property, interests, or organization, without the unanimous consent of its members. I should like to see our city organizations and our county organizations, that fear that this effort may in some way prejudice them, relieved of that apprehension by some assurance that nothing will be done prejudical to them.

To repeat, this will not succeed in any community where the bar is divided and preponderant opinion does not support it. Let us also remember (which sometimes some of us from New York tend to forget) that New York is not the United States. Let us remember that problems similar to those that we have in New York City probably obtain in some of our other large communities with bar associations. Let us also remember that there are many states which apparently are ready for a movement of this sort, where it is needed, where those apprehensions are not indulged, where the organization of the bar might have a wholesome effect in producing a better conception of the duties and responsibilities of the profession.

This meeting is called, as I have said, to consider the means for furthering the general purpose. I hope that there will be a free discussion. We have not provided a series of papers. There have been papers enough. We are here to talk the thing over as reasonable lawyers.

Now, I know perfectly well that the first thought in the mind of any well-prepared lawyer is: "I object!" But the way to get on with these matters, and of course you appreciate that as well as I, is to see whether the objection is well founded. There is nothing arbitrary about this. I have been talking recently in this city to the Society for the Codification of International Law, so I am well accustomed to processes which are destined to be slow. We can have this with us probably as long as we will. But the matter is to be taken up by states. Different conditions obtain in different states. The dream that we have, the vision we have—don't let that fail—of lawyers together feeling that they are members of a profession, feeling that the interests of the profession are not the interests of a minority, but are the interests of all, feeling a duty to establish and maintain standards and willing to discuss with anybody the way to do it, but intent on getting it done.

Alabama Reports

The order of business announced by the chair called for reports from states which have adopted bar organization statutes, then the remaining states and finally local associations. Alabama responded first through two delegates, Henry Upson Sims and Edmund Beckwith.

Mr. Sims said that prior to the enactment the voluntary association had much greater powers than those in other states. "We believe in Alabama in benevolent autocracies, whether it be in the Democratic Party, Mr. Chairman, or whether it be a professional organization. Perhaps it would interest you to know that the Alabama Medical Society is the most completely organized medical society in America, and, I think, in the world. . . . They elect a Council which dictates the quarantine laws of the state, and the State Health Officer is designated by the Alabama Medical Society with all the statutory powers incident thereto. So there was no particular reluctance on the part of the Alabama legislature to give the bar approximately similar powers to those of the Medical Society."

"We accomplished two things. . . . First, we are put in absolute control of admission to the bar, and we are put in absolute control of disbarment. . . . We previously had the power, through our Council, to prosecute for disbarment and to require any prosecuting officer in any county to prosecute, but the respondent had the right to a jury trial. Under our new act he has not the right to a jury trial. Our own Council of the bar tries him, and if it decides to disbar him, it disbars him, subject to his right of appeal to the Supreme Court, because the Supreme Court must necessarily strike him from the rolls. We feel that that will be perfunctory." For ten years previously there had been a commission appointed by the governor to admit to practice. It was insisted that this right should be transferred to the official state bar, and it was done with the proviso that the provisions for admission should stand until changed by the State Bar and approved by the Supreme Court. It is expected that approval will be perfunctory, when any change is proposed. "We are progressing under our act as we expected to. We had only one fear, that taking the administration of the bar out of the hands of the old crowd, the benevolent autocracy, it might get into other hands because the Council might run the risk of control by insurgents, or something of that kind. I am glad to be able to report that the benevolent autocracy continues in possession under the new law. Therefore I think we are safe." Mr. Sims also reported that the Birmingham Bar Asso-

ciation continues to exist and function as a voluntary body. "We have our property, our library, and membership in it is absolutely voluntary. It doesn't interfere in the slightest with our membership in the State Bar."

Mr. Beckwith dealt with the "question of the small, voluntary, intellectual association of lawyers, undertaking to get a legislature to listen to it for the making of rules of procedure, and the usual courteous dismissal of the minority by the committee on judiciary or committee on legislation with a casual nod, and if there was any legislation, it was a worse mess than before." But under the new dispensation "we have progressed not alone with the control of admission and with a tightening of discipline, with a control of disbarment, suspension and reprimand, but there is a very definite and distinct atmosphere which indicates even to the casual observer that the next session of the legislature will be much readier to listen to proposals for the improvement of machinery of judicial administration than any have ever been.

"Out of that it seems to me that the two alternatives presented to this Conference become relatively simple: shall we have minority organization or shall we have a majority of the bar in control? I use those two words deliberately. We shall never have control till we have a majority of the bar and the experience of fifty years has demonstrated that we shall never have that majority under voluntary organization. . . . The next question is also simple: is there anything dangerous in letting the rest of the lawyers in where we are? Every lawyer necessarily believes in the fundamental righteous sense of justice of the ordinary man, and no lawyer ever went into court without a hope and a definite belief that by human means and at the hands of ordinary men he was going to get justice sooner or later. And yet it is suggested here and there that if we turn a state bar association over, not alone to ordinary men at whose hands we must seek justice every day, but turn it over to lawyers themselves, trained in the science of justice, we shall immediately submerge all of our institutions and lose the whole of our machinery of justice. We couldn't believe that any such thing could happen.

"Mr. Sims used the amusing term about a benevolent autocracy. There has always been and always will be the autocracy and the aristocracy of brains and morals. It will always be benevolent and it will always control. There is no getting away from the accumulated facts of human experience and it seems to me that our three years of experience is valid evidence . . . that even the coldest logic of the most finely tempered legal mind cannot ultimately dispute that when you have a majority of the bar control, you put that control in the most capable and the most conscientious hands that the state can have in its service."

North Dakota's Experience

North Dakota was represented by Mr. O. P. Cockerill, Dean of the State University School of Law, who said: "In 1921 the legislature passed an act organizing all practitioners of the state into a corporation. It was forced upon them . . . The following legislature amended the act, reducing the annual fee from $15 to $10 . . . and providing for the Bar Board, which is a board of admissions to the practice of law. The candidates are nominated by the members of the State Bar Association. From the nominees the Supreme Court selects three men. So far the court has always selected the three receiving the highest vote." The Bar Board has also the duty to originate investigations concerning lawyers who are complained of. Through its selection of the members of the Bar Board the State Bar "itself has practical control of admission and of disbarment. . . ."

"Through the energy of the State Bar Board in 1923, the second year that the State Bar Association was in existence, they adopted for the state the same requirements for admission that had been recommended by the American Bar Association. That, however, has not got any further than the State Association. The legislature has not been brought to the point of receiving it. We are just a little afraid yet of the legislature." The speaker then said that there was not a scrap of evidence of the existence of the state voluntary association from its organization in 1899 to 1921, but that full reports have been published regularly by the new inclusive bar.

At the last annual meeting 250 members registered out of a total bar of 524. Half of the annual license fee of $10 goes to the Association. "The Bar Board has had little trouble in preventing lawyers who refuse to pay the $10 from practicing. The clerk sends the list to them and if any man is practicing whose name is not upon the list, a complaint is made by the Board to the Supreme Court, and the gentleman is given notice. On every occasion so far the $10 fee has been paid or the delinquent has retired from practice for the year. . . . The State Bar of North Dakota is taking an interest in its annual meetings, something that it had not done before. . . . It has not interfered at all with any local bar association. . . . It has put energy into and helped to solidify and unify the bar of North Dakota."

There was no representative present of the official state bar of Idaho, where the first act was held invalid and was succeeded by a perfected law under which the bar has adopted, with approval of the Supreme Court, rules concerning the management of the bar, rules for admission, rules for conduct and rules for discipline.

The New Mexico State Bar

United States Senator S. G. Bratton reported very fully concerning the statutory bar of his state, established in 1925. Administration is vested in nine members of the Board of Commissioners for the State Bar, one to be chosen in each judicial district by the ballots of the members. "The Board has full power to determine and prescribe by rules and regulations the qualifications and requirements for admission to the bar; to fix the fee to be charged applicants, to adopt and enforce rules governing the conduct and duties of members, and to investigate and pass upon all complaints of unprofessional conduct of any member. The statute gives the Board power to establish rules governing procedure in cases involving alleged misconduct of members, including the power to create committees for the purpose of investigating charges and complaints. Such committees are clothed with authority to issue subpoenas and compel the attendance of witnesses and administer oaths. The Board is given power to take proper disciplinary action by public or private reprimand, suspension or disbarment, but in case of suspension or disbarment, the Supreme Court may review the action, and may upon its own motion, without the certification of any record, inquire into the merits of the subject matter and take such action as may be agreeable to its judgment."

The Board of Commissioners is empowered, with the advice and consent of the Supreme Court, to appoint three members as a special committee on admission. "This has been done and the Commission is functioning in a splendid manner. The bar, as well as the state generally is receiving excellent results. A standard of requirements for admission has been evolved which compares favorably with that of any state. . . . The first annual meeting under this act, held last year, was one of the best ever held. . . . Members came from the four corners of the state and every minute was consumed in considering matters of vital interest to the welfare and advancement of the Association. . . . The Board now serving is composed of nine of the ablest and most outstanding attorneys of the state. They have given of their time and effort unreservedly. . . . The members of the bar, with rare exceptions, support the new law and believe it will facilitate higher standards, purer ethics, and will bring about more confidence in members of the bar and a more wholesome respect for the profession." The act protects both as to discipline and admission by vesting in the Supreme Court power to modify or annul any rule on either subject. It guarantees a recourse to judicial authority. Senator Bratton concluded with an unreserved commendation of this method of organization. "Urge upon members of the bar in other states to adopt this method of securing better results, thereby accomplishing in a uniform way some of the steps of progress we all desire so much."

The California Situation

Mr. Joseph J. Webb, chairman of the committee of the California State Bar Association charged with drafting a bar act and securing its adoption, crossed the continent to tell most informatively of the remarkable campaign which he supervised, leading to adoption of a strong act with only eleven dissenting votes in the legislature, and finally to the governor's veto. He said that the effort would be renewed in the next session with bright hopes for success. The subject was first discussed in 1917 and in 1920 a committee was created. A bill was introduced in 1921 but not passed. In the fall of 1922 public lack of confidence in the bar was revealed by a popular vote killing an act to prevent practice by trust companies. The State Association took stock and prepared for a most thorough campaign. It was agreed that without legal authority the existing voluntary associations could not discharge their public duties. A letter from Mr. Justice Richards, of the Supreme Court, was read, wherein he said: "The courts should not be called upon to pass upon the qualifications for membership in the bar. The bar itself should determine the qualifications of its members and should, by the operation of its regulations, cause membership in the bar to cease when the character and qualifications of a member fail to attain the standards set by itself." A resolution was adopted favoring the plan by the Judicial Section and every member of the Supreme Court went on record as approving the idea on principle. "The underlying principle of the campaign was unremitting effort, toil, and work. . . . We left nothing to chance insofar as human foresight could anticipate."

After the best bill possible was drafted the committee studied constitutional questions and then practical objections. The endorsement given by the fall meeting in 1923 was by possibly 75 members of the bar of the state, less than one per cent of the bar of the state attending the meeting. It was only a start. The state was districted and plans made for winning four classes: lawyers, editors, legislators and the public. Local associations were visited and where there were none a judge of the Superior Court was asked to call a meeting. Representatives of the press were invited to all meetings and editors were specially interviewed. The public was reached through every sort of organization, chambers of commerce, Rotary clubs, labor unions. Wherever there was a large meeting this committee sought a hearing. "Meeting the public frankly, they met us in the same way, and we did receive their cordial and hearty support."

Finally winning the legislators involved great effort. Each member received not

only a special pamphlet but a personal letter from an acquaintance. The district attorney's convention endorsed the bill. When the session was held a joint meeting of the two judiciary committees was held and the bar was represented by its strongest members.

The result was a unanimous vote in the senate and a vote of 65 to 11 in the house. When the governor hesitated to sign the committee saw that he received thousands of letters and telegrams.

Mr. Webb said that the committee met with sincere opposition and also with deliberate misstatements of fact concerning the bill. "I sincerely hope that the American Bar Association and the committee in charge of this work will not become discouraged because of the slow progress made. As has been said, you cannot legislate morals or ideals into any one. But we believe that by bringing the members of the bar into closer contact, by acquainting them with professional problems, in time we will create a greater interest in professional matters and through that course of contact, through better organization, we will create that *esprit de corps* which will ultimately solve our problems. . . . The proper administration of justice rests wholly upon the bar. . . . When you consider the importance of this question you must, and I believe you will, press forward until all the states of the Union realize that a self-governing bar such as is provided for in the Alabama act and California bill is the one way of accomplishing the desired results."

Progress in Other States

The temperamental reaction of lawyers to the idea of employing statutory power to expedite the evolution of bar powers is a very important matter. To all lawyers the idea comes first as something entirely original—something so alien to accustomed thinking as to make it difficult to visualize. First reactions are almost uniformly hostile. In many cases reflection corrects this feeling. Usually a few embrace the idea with such enthusiasm as to place it ahead of all other programmes. In a number of states these enthusiasts have believed that legislation could be obtained quite readily, but have found in time that a slow educative process is necessary. Temporary defeat has come either in the state association or in the legislature. And in some instances the enthusiastic sponsors of the principle have become discouraged quite as speedily as they became enthused.

It is becoming quite clear that in nearly every state a long time is required to convince a sufficient number of the profession to make it possible to get a bill passed against the interested opposition of a class of lawyers who can never be converted. It is equally clear that the length of time required in most states is directly proportionate to the energy expended. The California instance illustrates this. The time and effort required are also roughly proportioned to the number of lawyers located in large cities. In a less populous state there is more homogeneity in the profession and the need for an inclusive organization is more quickly realized.

In New York and Illinois all possible objections and hindrances to prompt action are found. Complete success in these states is not to be expected until after the principle has thoroughly proved itself in a number of states. There are also the compact states, such as Delaware, Connecticut, Rhode Island, where the bar is in a large measure integrated through present organization and almost universal acquaintanceship and where the need is not so insistent as elsewhere.

Unlike a movement to amend the United States constitution, this movement is not dependent upon interstate approval. It is essentially local and the benefits accrue when and as any state achieves the status of inclusive organization.

Reports were made in the meeting by delegates from the various types of states. In Ohio, Minnesota and Kansas movements which made a speedy start met with reversals. The reaction to these defeats is instructive. In Ohio the work of building up local associations was assumed by the state association and a conference of delegates from county and city bars instituted. A salaried secretariat is maintained. In Minnesota the state association proposes to adopt the Washington plan of building up local associations and federating them with the state association, with a unitary membership. This plan is presented in the JOURNAL, Vol. VIII, No. 2. In Kansas the movement is reasserting itself after a hard fight and narrow defeat in the association.

Encouraging news came from delegates from a number of states—Georgia, Iowa, Kentucky, Maryland, Rhode Island, Utah, Virginia, Tennessee. In Washington the bar is almost inclusive and an act could doubtless be obtained at any time that the association realizes a need for one.

In Illinois the state association has been increasingly aggressive for a number of years. Through district federations of local associations the whole bar outside of Cook County is being energized and two-thirds of the lawyers are enrolled. A similar proportion is enrolled in the Chicago Bar Association which co-operates in Cook County with the state body. A healthy evolution is in progress toward integration. It is conceived to be possible to get inclusive organization eventually through a rule of the Supreme Court. At the present time efforts looking to legislation are untimely.

Mr. Jessup's Proposal

On behalf of the Phi Delta Phi Bar Association of New York City Mr. Henry Wynans Jessup offered a proposal which had been adopted by a conference of

twelve local associations convened by the Phi Delta Phi, in 1925, and subsequently ratified by the latter. The proposal is that constituent associations be asked to consider, when they seek statutory organization, "the enactment of a provision permitting the integrated bar of that state, functioning within a given judicial district, to nominate candidates for judicial office, with the same force and effect as though such integrated bar were a political party, with appropriate place upon the official ballot." The matter was referred without other action.

The New York Situation

The New York situation has been referred to above. The Conference accorded to the presidents of the two city associations, William D. Guthrie, of the Association of the Bar, and Louis Marshall, of the New York County Lawyers Association, unlimited time to present their views and arguments.

President Guthrie considers the idea of an inclusive self-governing bar in New York state one likely to result in chaos, destroying the good now being done by the voluntary associations, instead of advancing the evolution from its present stage. The unfitness of a very large proportion of the lawyers to participate in an inclusive association is presumed from the fact that so many of them have never joined any association. The following quotation pretty well sums up his views:

"Now we in New York have reached the conclusion that it would be extremely dangerous to vest the control of the future of the bar of the state of New York, its standards of service and its ethics, in the hands of a body now wholly outside the bar associations, who have never shown the slightest interest in the profession, who have never shown the slightest desire for co-operation or any spirit of fraternity, that it would be extremely dangerous to vest in that majority the control of the bar with authority to speak for the whole. The effect would be by any such compulsory incorporation that 19,000 lawyers would be added to the present group of 4,200, and, constituted as humanity is, it would only be a short time before this majority took control. It would only be a short time before this body would make the State Bar Association and its local divisions the footballs of politics, for they would have patronage and funds to control and the power to speak authoritatively for what has heretofore been a great bar.

"Annually hundreds of men are being admitted to the bar who are able to pass the examinations, against whom nothing can be found, and yet, who, we are all convinced, ought not to be entitled to practice law and ought not to be able to exercise the privileges of the profession. We have a grave danger. . . . You cannot solve that problem offhand or automatically by any form of legislation."

Mr. Louis Marshall did not agree with Mr. Guthrie that an influx of lawyers "who lack the traditions of the Anglo-Saxon" bar constitutes a menace. His argument went largely to the direction of pointing out the alleged present feebleness of the state association when compared with the two strong city bodies, especially in committee work. He presumed that an inclusive state bar would destroy the constructive work so laboriously built up and would be unable to create new machinery to accomplish desired results.

The Queens County Association supported the two preceding speakers, the delegate fearing that "our association, which has such splendid traditions, is going to be wiped out and we be given something which cannot possibly function."

Mr. Cohen's Argument

In reply to the arguments advanced by representatives of the New York local associations, Mr. Julius Henry Cohen, himself a member of the two leading bodies, analyzed the position of the opponents and presented very cogently the general theory of the inclusive state bar. Mr. Cohen asserted that proponents of the inclusive statutory bar presented a philosophy. "It is this: when you and I were admitted to the bar, we took an office, not merely as officers of the court, not merely to perform jobs for clients, but we took a position which put us in relationship with every other lawyer in our state. Whatever I may say about the social qualifications of any member of the bar, or about his character, when he turns up representing a client, I must receive him in my office if he has a personal communication to make to me. I must meet him in the court. . . . We have accepted the philosophy in almost every utterance that is made by every distinguished lawyer that the bar as a whole of each state has certain public duties to perform through association, and every lawyer is under obligation to aid in the performance of those duties.

"This is not creating a new status. It is accepting a status which we entered into by virtue of our admission to the bar and merely endeavoring in our crude way to create the machinery which will enable us to function. Is that philosophy accepted by the bar of the country at the present time? It is not. . . .

"If that philosophy be true it is no answer to say that it will fail of operation, because who can say that it will fail when you have taught every member of the bar that his duty is to function in collaboration with every one of his brothers as well as with the court and with clients.

"If that philosophy is unsound, we are all out of court and there is no further discussion. But the philosophy is sound and the more you men think about it, the more you read of the history of the bar, the more you will realize that the

bar already exists as an inclusive organization, but has not got the machinery with which to function."

The New York County Lawyers Association was founded on the principle that any lawyer admitted to practice was acceptable for membership. That association has not gone under by reason of its broad principle of membership but has become the largest local association in the country and has elected to its presidency such men as Judge Hughes and Judge Dillon. It originated the Committee on Professional Ethics which has performed a duty benefiting the bar of the entire country. It originated the Committee on Unlawful Practice of the Law with similar results. In its present campaign for a million dollar building it has received from Mr. Cromwell a contribution of $130,000. "And what is the first instruction that we get? Get every member of the bar of New York County signed up as a member of the County Lawyers Association. The very directors who passed the resolution condemning the idea of an inclusive state bar are out urging that we get every member of the bar of the county of New York into the Association. Now if it were true that there are 10,000 lawyers in the county of New York that would destroy the work of the Grievance Committee, the Committee on Unlawful Practice and the Committee on Professional Ethics, if that fear were seriously entertained, would we do anything of the sort?"

Replying to the charge that non-membership in an association means indifference to moral standards, Mr. Cohen presented the results of an analysis showing that young lawyers are slow in joining any association, only one out of 91 admitted in 1925 having joined the state association. Analysis of the membership of two of the leading firms in the city showed that a minority of the partners had joined the state association, and an equal number belonged to no association at all. "Don't you see the point? These men have failed to join bar association not because they are of low moral character. It is because they entertain the philosophy so eloquently put forward here, namely, that we are all independent; we have no duty to belong to an association. But can we say that those members of leading law firms who have never manifested a desire to join a bar association are entitled to accept the philosophy of the selective bar association and at the same time be charged with being a menace to the bar if they don't join an association?

"Until we have convinced the younger men of the philosophy that from the day a man is admitted to the bar he ought to be a member of its association you will have this same situation which I have just related. That is where the large majority is, not in these aliens that my friend from New York is so much afraid of. There is no danger from these aliens. Don't any of you men go back to the West or the South with any fear that these young men who work during the day and study at night are going to overthrow standards. That fear exists in the minds of a number of men in New York whom we respect. But it is not justified by the facts."

In the bar associations the members follow the leadership and when men like Mr. Guthrie and Mr. Marshall tell us their deliberate convictions they swing the vote. "The bar will always be swung by leadership, and leadership of the same high intellect and the same high virtue. Bu this is true—all the leadership in the world, all the sound convictions with respect to legal education, with respect to all these matters that we solemnly resolve about at these annual meetings of the American Bar Association and thi Conference will never become effective through the votes of the minority of the bar.

"You have heard recital after recital of how, after a bar association has adopted something, the legislature disapproves, though embracing many lawyers. Why? Because of the very fact that the associations today are made up on the selective basis, the voluntary basis, and that leaves those on the outside with the feeling that they are not a part of it, and they are hostile at the very beginning. . . . . We may be wrong about it, but our feeling is that instead of shutting the doors on those now on the outside, if we open the door and say 'You are welcome, come in, mix with us,' that then we may have the power to help them. That can't be done tomorrow nor the next day, but in time to come. If we can formulate some kind of machinery that will enable the bar as a whole to perform its duty, not merely to client, not merely to court, but the lawyer to the lawyer and the lawyers as a group to the state and to the nation, we can by this process of fraternity do away with at least some of the evils we deplore."

The only resolution offered was one moved by Mr. Guthrie, as follows:

RESOLVED that this Conference of Bar Association Delegates recommends to the various state and local bar associations throughout the United States that compulsory all-inclusive incorporation of the bar is a matter that should primarily and properly be determined by each state, in accordance with its own existing conditions and its own traditions.

The adoption of the resolution concluded the long sessions. The meeting afforded the presentation of a wealth of information encouraging to supporters of the movement, and also gave opponents full opportunity to present their objections. The resolution merely states an obvious fact, one on which all the efforts put forth by the Conference of Delegates have been predicated.

Committee Report Favors Inclusive Bar

Self-Government Needed to Place American Bar on Level With Bars of Other Nations, Says Conference of Delegates Committee[1]

Mr. Chairman and Delegates:

"It is very difficult to make people believe, but still it is true, that if an institution contains corruption, and the line is not drawn closely to sever it at once from the sound body, however honest, however earnest may be the purpose of the worthy members, the plague-spot is in the body, and the *whole is sick.* The disease is not local. It may be cured; but while the plague-spot lasts, the whole body suffers. The institution is suspected, the distinction between the members is not and cannot be known. I speak now of the bar quite as much as I do of the judiciary, and it is only when you attempt to make a rally of the powers left, to make the issue, that there shall be *no* disease, *no* corruption and *no* base aspersions without foundation and that it shall not be permitted for men to scoff without cause at the administration of justice, either through the bench or by the bar, and make it plain, one way or the other, that the institutions are pure and strong, or, that they are vicious and corrupt—it is only by that rally that we can restore health and strength, and confidence. And that is the purpose of this rally tonight. It is aimed at no other object than the evil itself—to ascertain it, to measure it, to correct it, and restore the honor, integrity and fame of the profession in its two manifestations of the bench and of the bar."

These are the concluding words of that great, noble-minded leader of the bar, William M. Evarts spoken February 1, 1870, at the meeting of the Committee of 200, at which was organized the Association of the Bar of the City of New York, of which he was the first president. The meeting was the first step in the process of a great evolution in bar organization.

The eloquent words of the great statesman and lawyer state the existence of an evil which that rally of 56 years ago was called to combat, and which we are determined to destroy. It is the belief, and always has been the belief, of your committee that the bar as a whole is sound at heart, that character and devotion to the high principles of the profession is the rule, and that corruption and indifference to professional ethics is the exception, but these exceptions do exist, and the profession as a whole suffers in reputation and in usefulness from the misconduct of the few. The committee pauses to pay tribute and honor to the earnest, patriotic, high-minded men who have during the last fifty years carried on the work of bar organization and battled valiantly for the upholding of the honor of the profession. We are not here to criticize them because they have not done more, but to laud and to congratulate them because they have done so much. Without their efforts, without the firm foundation which they have created, we would not be here today attempting to enlarge and to strengthen the useful and necessary edifices which they have created.

Your committee has never taken upon itself to attempt to advise what should be done and what should not be done with reference to local conditions, but it has ventured a word of caution against any too hasty discarding of any of these great voluntary organizations whose usefulness has been so marked and which, even in the event of official organization of the entire bar, may prove to be still useful and necessary. Your committee knows of no safer guide than the admonition to hold fast to that which is good, but it has never found in that admonition any warning against supplementing and adding to the means which former generations with courage and progressive foresight have labored to provide us.

The bar is an entity, recognized as such from the earliest time by the judicial and legislative authorities, and universally held responsible by the public for the conduct of its members.

"It will not be denied that there is a common belief, not only among ourselves, but among all classes of our citizens, that the bar of this city fails to exercise that influence which is justly due to it. This is a melancholy fact; we look for the causes of this decline. . . . Why is it that we, the most important class in the community, conservators as we are of justice, sworn officers of the courts—why is it that we are incohesive as the shifting sands of the ocean beach?"

Here again your committee quotes, this time from the words of Henry Nicoll, Esq., on the occasion referred to above. The distinguished lawyer of that day states a condition and in effect, at least, gives an answer.

It has been the purpose of the committee which at six annual meetings has been approved by the Conference to secure legislative acknowledgment of the right of the bar to govern itself, subject to the constitutional control of the courts and the plenary and inalienable authority of the legislature. There cannot be a moral obligation where there is no power to discharge it. We are, as stated, held responsible by the general public for the shortcomings and for the misconduct of our unworthy

[1] Report of Committee on State Bar Organization submitted at Washington meeting of April 28, 1923.

members and as we are held thus responsible we should be given the power to discharge the obligation. But it is not merely the question of how the public views our obligations, but more particularly how we view them ourselves. We are members of a profession which has in all ages struggled to maintain the highest ideals; as a profession our guiding thought has always been fidelity to clients, devotion to the public interest. Mr. Nicoll, in the remarks quoted a moment ago, referred to the fact that we are conservators of justice, sworn officers of the courts. We are in fact as much a part of the courts as the judges themselves since we are the moving and advising members of the courts whose adjudicating members act in substantially every case upon the motion and counsel of the members of the bar. We are in law as well as in fact a body of officials daily performing an important governmental function absolutely essential to the administration of justice, which is the very foundation of all civil government. The proper performance of our duties requires character and fitness in our members, high ideals of duty strictly lived up to, and power in the general body to see that the members meet these requirements. It is a matter of the greatest moment to the public that the work of the lawyer, its counsellor, its representative in court, its fiduciary and trusted agent in all matters pertaining to the law, be performed efficiently, honestly and with fidelity.

Let us face the facts. There are members of our profession who prey upon society, who take advantage of the fiduciary relation to betray and to exploit those who come to them for advice and assistance. They are few in number but their existence smirches the entire profession. There are criminal lawyers who are not only criminal lawyers in the sense of defending criminals and practicing at the bar of the criminal courts, but who are themselves criminals, and they deal in duplicity, chicanery, fraud, subornation of perjury, corruption of juries, and sometimes, through insidious means, the improper influencing of judges themselves. There are dealers in perjury, chicanery, fraud, and imposition in our bankruptcy courts. They are all, while few in numbers, a poisonous source of corruption in the nation, destructive of confidence in the administration of justice and in the righteousness of the government itself. This source of evil must be destroyed. The question constantly presented to the committee is whether it can be destroyed by the present means, and the conviction, strengthened by each succeeding year in the seven years during which the Conference has had this matter under discussion, is that it cannot be, but that the present means must be supplemented by additional means of proved effectiveness.

Our present means of bar regulation and bar discipline has been the action of the court instigated in some instances by the law officers of the state and in others by the voluntary bar association and through the action of the grievance committees. In spite, however, of most earnest efforts, one hundred and fifty years of discipline through the courts, with the aid of the agencies we have referred to, leave us with conditions which we deplore.

Let us emphasize the point here that the most important means, so far developed, has been that of bringing the members of the bar into organized groups and holding up to them year by year the high ideals and the lofty traditions of the legal profession. But after 56 years of experience, 56 years of the most strenuous and self-sacrificing effort, the great majority of the bar remains outside of these voluntary groups and very largely outside the sphere of their influence.

The equally unfortunate fact remains that among those outside the bar associations—and they comprise at least two-thirds of the bar—there are many who are definitely in need of the inspiration and restraint which comes from close professional fellowship. We would not for one moment reflect upon this outside group as a whole. It is a group which in the main is fundamentally honest and devoted to the ideals of the profession. We believe in the American bar; we believe in its honesty, and integrity as a whole. We believe that, man for man, there is not a group in all the world more devoted to its professional ideals, more loyal to its conception of professional duty, more willing to make sacrifices for the public. If this were not so, hope for an ultimately efficient, satisfactory and impartial administration of justice would be gone, for if the great mass of our profession were not sound at heart there would be no power in all the world to restrain or redeem it.

We turn to the experience of the bar of England, the bar of Ireland, the bar of Canada, and the bar of France. We cannot believe that the men of these countries who seek admission to their bars are sounder in morals, more devoted to a sense of duty, or more intelligent than those who seek admission to our own; but the fact remains that those bars maintain and enforce their standards; ours do not. The one distinguishing difference in this regard between those bars and our own is that those bars are self-governed and ours are not. The counsellor, or the advocate, or the barrister who is admitted to one of those bars becomes not merely a lawyer entitled to go into court and to practice law, but he becomes a member of an institution, he becomes a fellow of the profession, he is given a voice in its government, he has a high privilege of performing a great and essential public duty, but he knows that with that privilege and the privilege of fellowship in that institution go duties to the institu-

tion, duties to the public and duties to the client, which that institution will see are performed.

Your committee has always believed that the coercive power of an organized bar is of slight importance compared with the inspiration which comes from the feeling of community and membership in an institution of noble ideals and great traditions; and that feeling, that inspiration, is necessarily lacking while we remain, as Mr. Henry Nicoll said, as incohesive as the sands on the ocean beach. Any one equipped in character and in intelligence to perform the great fiduciary functions of a counsellor at law, an advocate at the bar, is worthy of the fellowship and membership of the bar as a whole; and any one unfit for such membership and such fellowship is not a proper person for the performance of the functions of that great office.

It must be remembered, however, that self-government and self-discipline is only one of the obligations resting upon the bar as a whole, which it has found impossible of performance in its present incohesive state. The bar, like the bench, is an essential instrumentality in the administration of justice, and the effective and satisfactory administration of justice depends upon the adoption of a practice and procedure, civil and criminal, which will result in not only impartial, but speedy, decision. That in many of our states the delays in the adjudication of causes have justified the maxim that justice delayed is justice denied, is a matter of common knowledge, and we are rapidly being forced to the conclusion that if changes are not effected in our criminal procedure, our law will lose its sanctions, and life and property their protection. There ought logically, therefore, to be some method by which the bar as a whole, through its authorized committees and commissions, might examine and pass upon ways and means for the improvement of the administration of civil and criminal justice, and when it had arrived at conclusions, speak authoritatively for the bar as a whole to the courts and to the legislature. Obviously where the government of practice and procedure is vested in the legislature, it must accept the responsibility of passing upon those subjects, but the bar as the bar ought to be articulate and ought at least to have the power of expressing itself, and of expressing itself officially.

The great vice in the present situation is the fact that nearly every recommendation of a voluntary bar association is met by the all too persuasive objection that it comes from a small and non-representative class of the bar without right or authority to speak for the profession as a whole. The conclusive proof of the effectiveness of this argument is found in the constant refusal of the legislatures of the states to follow the recommendations of our voluntary organizations.

What competitive proposal is there? There is absolutely no other fruitful idea in the field. The federation of local associations with state associations is not competitive but is a means to the end we stand for. This plan of the federation of the local bar associations and the effort that has been put forth to increase by this means the membership in the combined voluntary organizations of a state, is in itself an illustration of the advantage instantly to be gained from the creation of an integrated, unitary, self-governing bar, for in such a bar its membership becomes co-extensive with the number of the lawyers in the state, and the chief difficulty of organization, namely, of holding together a membership and securing the payment of membership dues disappears and leaves the officers, the boards and the committees of the bar free to devote themselves to the accomplishment of the ends for which it exists. . . .

Within the short hours of our two sessions, we hope to learn something from the practical experience of the states in which an organized bar is a reality, something of the difficulties to be overcome and of the means employed and suggested to overcome them.

Respectfully,
CLARENCE N. GOODWIN, Chairman.

(*Continued from Page* 4)

have escaped many of the evil conditions which we combat appears to show this inherent quality.

Lawyers of our times are fortunate compared with all their predecessors in that they have opportunity in pressing to a glorious conclusion movements which have been long in incubation. Many may reasonably hope to see the day when the bar will attract to its field the ablest young men of the best schools, when the desideratum will have been achieved that the license to practice law is a guaranty of character, of learning, of dependability, not on the part of a select class of lawyers, but universally; when the bar will fulfill its obligations to itself and its every member; when the opinion of the bar will guide the electorate in the choice of judicial candidates. These are elements in what is conveniently spoken of as bar integration.

Affiliation Plan Worked Out in Oregon

Committee of State Bar Association Drafts Constitution Along Lines Which Have Made Bar of Washington Almost All-inclusive

It was possible until recently to assert that there was no state in which more than one-third of the practicing lawyers were enrolled in the state bar association. But progress is being made now in a great many states. A disposition toward professional solidarity is being cultivated and results are becoming apparent. More and more the feeling is current that a lawyer has not discharged his full duty until he has aligned himself with his professional organization. In no other way can he keep in touch with currents of legal and legislative thinking.

Only a few years ago the state of Washington was one of a number of states, large in area, small in population, and unable to enlist more than a moiety of the profession in the state association. The situation was wisely considered due to natural causes rather than to individual defection and a plan was devised to overcome the handicap imposed by geography. The state association devised a plan which has made it the leader of all states in percentage of membership, except those in which the bar has been given inclusive organization by statute.

The Washington plan involves affiliation of local associations by acceptance of the proposal made by the state association. Under such acceptance every member of the local association becomes a member of the state association. The act of affiliation was found to be very acceptable to the local bodies and the next step was to create local associations where they had not existed. In only three years from the inception of the plan about ninety per cent of the lawyers of the state were members of the state association, which had thus grown from one of insignificant membership and resources to a very live and powerful association.

An ingenious plan for financing the state body was evolved. It provides for assessing the sum needed for its support on the local associations in a ratio proportionate to the population of the counties in which they exist. This tends to proportion contributions to the opportunity for professional earning and has the very great advantage of transferring the burden of collections to the local association. It is to be presumed that no such affiliated body will permit the relationship to terminate because of inability to pay. It thus becomes a prime duty for the local association to make the collections from its members and this can be done locally far better than otherwise. A careless member might easily endure delinquency of dues payable to a remote body, but not to one which is centered in his home town. And the fact that the local association must pay a determined amount, regardless of the strength of its membership, serves as a powerful inducement for its loyal members to bring in all of their colleagues in order to reduce the per capita cost.

The success of the Washington system of affiliation is certain to influence action in other states, especially where conditions are similar. In Oregon, for instance, like conditions prevail, and it has been found too difficult to interest a large proportion of the bar not enrolled in any association in the state association's campaign for statutory organization. The Oregon Bar Association has therefore created a committee to work out a plan on the Washington principle. This committee, headed by Oscar Hayter, of Dallas, has prepared a draft of a constitution which will be

offered at the next annual meeting. The matter is of so much importance that we reproduce the draft constitution herewith.

ARTICLE I.

Name

The name of this Association shall be the OREGON BAR ASSOCIATION.

ARTICLE II.

Object

This Association is formed to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to maintain the standard of integrity, honor and courtesy of the legal profession, and to cherish a spirit of brotherhood among the members thereof.

ARTICLE III.

Membership

The membership of this Association shall consist of three classes:

(a) Regular members,
(b) Individual members,
(c) Honorary members.

(a) Regular members shall consist of the members of the Bar of Oregon who are members of any affiliated local bar association.

(b) Individual members shall consist of such members of the Bar of the State of Oregon as are now members of the Oregon Bar Association, and who are not members of any local affiliated bar association, and such as may hereafter be accepted into individual membership by the Executive Committee. During the affiliation of a local bar association no resident of the territory covered by such local association shall be admitted to individual membership herein. If a local association ceases to be affiliated herewith, its members shall be transferred to individual membership herein.

(c) Honorary members shall consist of the Judges of the United States Courts within the State, and of the Supreme Court and Circuit Courts of Oregon, during their respective terms of office, and such other honorary members as may be elected by the Association.

ARTICLE IV.

Officers

Section 1. **Officers Named.** The management of the Association shall be vested in its Executive Committee, which shall consist of the President, Vice-President, Secretary, Treasurer, and District Committeemen equal in number to three times the number of congressional districts in Oregon now existing or hereafter created. The District Committeemen may elect the President, Vice-President, Secretary and Treasurer, or any of such officers, from their own number. Five members of the Executive Committee shall constitute a quorum; provided, each congressional district is represented by at least one committeeman.

Section 2. **Selection of District Committeemen.** Three district members of the Executive Committee shall be elected by and from the members of the Association in each congressional district in Oregon, in the following manner:

(a) **Nomination.** Nominations shall be made
(1) By a committee composed of the last five living Presidents of the Association; also
(2) By a committee of five appointed by the President.

Nominations may also be made by a written petition of any ten or more members residing in the same congressional district as the nominee.

All nominations shall be filed with the Secretary of the Association at least thirty days before the election date.

(b) **Election.** The election of the district committeemen shall be by ballot of the members of the Association in each congressional district. The Secretary of the Association shall mail ballots containing the nominations for the congressional district to each member in good standing in such district on or before the first day of September in each year. The election shall be held on the third Monday in September of each year, and ballots shall be deposited in person or by mail with the Secretary of the Association on or before such date. The President and Secretary of the Association in office at the time of the first election hereunder shall canvass the votes and record the result thereof. Thereafter the Executive Committee shall prescribe rules and regulations for the annual election not in conflict with the provisions of this Constitution.

Section 3. **Selection of President, Vice-President, Secretary and Treasurer.** The President, Vice-President, Secretary and Treasurer shall be elected by the District Executive Committeemen at the time and place of the annual meeting of the Association.

Section 4. **Vacancies.** Vacancies in the Executive Committee or in any of the offices of this Association shall be filled by the Executive Committee for the remainder of the term.

Section 5. **Term of Office of District Executive Committeemen.** At the first election held hereunder, the three persons in each congressional district who receive the highest number of votes shall be elected and shall compose the first Executive Committee. Of the first group of three committeemen elected in each district, one shall hold office for one year, one for two years, and one for three years. The determination shall be made by each group, by lot, following the first election. Thereafter, one committeeman shall be elected in each district for a term of three years.

Section 6. **Term of Office of President and Other Officers.** The President, Vice-President, Secretary and Treasurer shall hold office from the conclusion of the annual meeting at which they are elected until the conclusion of the annual meeting of the following year, and until their successors are elected.

ARTICLE V.

Affiliation of Local Bar Associations

An "affiliated local bar association" within the meaning of this Constitution is a local bar association, comprising one or more counties in and not exceeding the territorial limits of the congressional district in which such county or counties may lie, which shall by a majority vote of all of its members, resolve to affiliate with and undertake to pay to this Association annually the amount assessed by this Association against such local bar association.

ARTICLE VI.

Representatives of Affiliated Local Bar Associations

Prior to the annual meeting of this Association in each year, each affiliated local bar association shall choose persons to represent it at all meetings of this Association for the ensuing year. Such representatives may be appointed or elected by such local bar associations in such manner as their constitutions or by-laws shall provide. Each affiliated local bar association shall be entitled to one such representative for each ten members thereof and one for each major fraction in excess of an even multiple of ten members thereof. An association with less than ten members shall be entitled to one representative.

ARTICLE VII.

Standing Committees

The following committees shall be appointed annually by the Executive Committee, to act for the ensuing year, and shall consist of five members each:

1. On admission to membership.
2. On jurisprudence.
3. On legal education and admission to the bar.
4. On grievances.
5. On legislation.
6. On necrology.

A majority of the members of any of the above-named committees shall constitute a quorum.

ARTICLE VIII.

Meetings

Section 1. This Association shall meet annually at such time and place as the Executive Committee may select. Special meetings of the Association may be held upon such notice as the Executive may determine, at a time and place to be stated in such notice.

Section 2. At all meetings of this Association, all members shall be entitled to participate. All such members shall be entitled to vote upon all matters coming before the Association; provided, however, that after a first vote is taken on any matter, any ten representatives of affiliated local bar associations may demand a referendum by ballot of the matter to be submitted to the entire membership of the Association, which vote, when taken, shall govern. The Executive Committee may provide for the conduct of such referendum and the canvassing of the result thereof.

ARTICLE IX.

Funds

The funds for the Association shall be provided as follows: Immediately following each annual meeting, the Executive Committee shall determine upon a budget deemed by them reasonably sufficient to meet the expenses of the Association for the ensuing year. They shall thereupon assess against each affiliated local bar association its ratable share of such expense in proportion to its membership, and upon each individual member of this Association his ratable share of such expense. In such assessments honorary members shall be excluded. Such assessments shall be paid to the Secretary-Treasurer on or before the first day of July of each year, and delinquent on the first day of August thereafter. Honorary members shall not be required to pay assessments.

ARTICLE X.

Expulsion

Disbarment, or suspension from practice at the bar, or the nonpayment of dues for the period of two years shall be deemed sufficient cause for expulsion from this Association. Such expulsion shall be by order of the President acting with the concurrence of the Executive Committee. Any affiliated association failing to pay for a period of one year the assessment levied against it, shall be automatically dropped from membership.

ARTICLE XI.

Amendment

This Constitution may be amended by a two-thirds vote of the representatives of affiliated local bar associations and the Executive Committee present at any meeting of this Association. Before any amendment of this Constitution shall be voted on at any meeting, notice thereof shall be given by the Secretary of this Association to the President or Secretary of each affiliated local association not less than thirty days prior to the date of such meeting. Upon a vote by representatives, each representative may vote such proxies as he may hold from other representatives selected by his own affiliated association.

ARTICLE XII.

Constitution to Take Effect

Immediately upon the adoption hereof by a two-thirds vote of the members present at the meeting at which this proposed Constitution is submitted, the Executive Committee shall cause the various local bar associations to be advised of the means by which such associations may become component members of this Association,

and invite such local associations to become members hereof, and shall prepare and submit a special form of resolution for that purpose. If on or before..... ..... (date) local associations representing areas having more than 50% of the population of the State shall by resolution accept membership herein, then this Constitution shall in all respects be substituted for the Constitution of the Association as at present written, but should acceptance of membership herein not be procured within said time, then, in that event, the Constitution of this Association shall be and remain as at present written.

(*Continued from page* 10)

stratum of the bar is not unlikely to put obstructions in the way of reform.

But these obstacles will hinder little, in the end, if our projects of reform have a sound basis in thorough, impartial, scientific research. If our law schools were endowed and equipped for research as our medical schools are, we might expect great things from them. Nowhere else shall we find the conditions of continuity of investigation, permanence of tenure, independence of politics, and assured competency, scientific spirit and scientific method, without which the necessary research will fall short of its purpose. We cannot expect legislative commissions at all comparable to the English royal commissions of the last century. We can expect our law schools, through chairs of criminal law, of legislation, of judicial organization and administration, and of comparative law, to lay broad and deep foundations on which our legislators may build with confidence.

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